PATENT COOPERATION TREATY

From: The INTERNATIONAL SEARCHING AUTHORITY

To see form PCT/ISA/220	**PCT** WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43*bis*.1)
	Date of mailing *(day/month/year)* see form PCT/ISA/210 (second page)
Applicant or authorised representative file reference see form PCT/ISA/220	**FOR FURTHER ACTION** See point 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/FR2005/000155	January 24, 2005	January 29, 2004

International patent classification (IPC) or both national classification and IPC
H04R25/00

Applicant
MXM

1. This report contains indications and the corresponding pages relating to the following points:

- ☒ Box I Basis of opinion
- ☐ Box II Priority
- ☐ Box III No formulation of opinion with respect to novelty, inventive activity and possibility of industrial application
- ☐ Box IV No invention unit
- ☒ Box V Justified statement according to regulation 66.2(a)(ii) with respect to novelty, inventive activity and possibility of industrial application; references and explanations to support this statement
- ☐ Box VI Certain reference documents
- ☐ Box VII Irregularities in international application
- ☐ Box VIII Observations relating to international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a

written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and postal address of international preliminary examining authority	Authorised official
European patent office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Netherlands Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Zanti, P Telephone No. +31 70 340-2906

Form PCT/IPEA/237 (cover page) (January 2004)

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No. PCT/FR2005/000155

I. Basis of report

1. Concerning the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated.

   ☐ This opinion has been established on the basis of a translation from the language in which the international application was filed into the following language , which is the language of the translation furnished for the purposes of the international search (Rules 12.3 and 23.1(b)).

2. Concerning **nucleotide or amino acid sequences** divulged in the international application (if applicable), the international preliminary examination was carried out based on the listing of sequences:

   a. Type of material
   ☐ a sequence listing
   ☐ table(s) related to the sequence listing

   b. Format of material
   ☐ on paper in written form
   ☐ in electronic form

   c. Time of filing/furnishing
   ☐ contained in the international application as filed
   ☐ filed together with the international application in electronic form
   ☐ furnished subsequently to this Authority for the purposes of the search

3. ☐ In addition, in the case that more than one version of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No. PCT/FR2005/000155

V. Justified statement according to Rule 43*bis*.1(a)(i) with respect to novelty, inventive activity and the possibility of industrial application; references and explanations to support this statement

1. Declaration

Novelty	Yes:	Claims 5-7, 9-14, 16-18
	No:	Claims 1-4, 8, 15, 19-22
Inventive activity	Yes:	Claims
	No:	Claims 1-22
Industrial applicability	Yes:	Claims 1-22
	No:	Claims

2. References and explanations
See separate sheet

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No. PCT/FR2005/000155

Concerning point V

Justified statement with respect to novelty, inventive activity and the possibility of industrial application; references and explanations to support this statement

1. Reference is made to the following documents:
D1: US 5 498 226 A (LENKAOUSKAS EDMUNDAS) 12 March 1996 (1996-03-12)
D2: WO 03/099177 A (MEDTRONIC XOMED INC) 4 December 2003 (2003-12-04)
D3: WO 97/30565 A (NEUKERMANS ARMAND P) 21 August 1997 (1997-08-21)

2. The present application does not satisfy the requirements of PCT Article 33(1), since the subject matter of claims 1-4, 8, 15 and 19-22 does not satisfy the requirement of novelty as defined by PCT Article 33(2).

Document D3 describes (the references between parentheses apply to this document): an inner ear stimulation prosthesis, characterized in that it comprises an implantable portion in the form of a rod (element 32, figure 1) capable of transmitting vibrations, generated by excitation means, to the semicircular canal of the patient's inner ear, which means are made of a biocompatible material and integrated in the implantable portion (see page 5, lines 4-18, page 24, lines 27-36, and page 27, line 3 to page 28, line 32).

The subject matter of these claims is not novel over document D1 or D2 either.

3. The subject matter of claims 5-7, 9-14 and 16-18 describes characteristics that, in the field of implantable prostheses, are known to a person skilled in the art. These claims therefore do not satisfy the PCT requirement of inventive step (PCT Article 33(3)).

4. The application does not satisfy the requirements of PCT Article 6, since claim 22 is unclear; the term "Implantable prosthesis portion" used in the claim is vague and casts doubt on the meaning of the technical features to which it refers.